

STATEMENT OF AVI SAMUEL GARBOW

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BEFORE THE

SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE

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Thank you, Chairman Boxer.

I would first like to express my appreciation to you, and Ranking Member Vitter, for holding this hearing. I am also grateful to those Committee Members – and their staff – who met and spoke with me in anticipation of this hearing.

I would like to take a moment to recognize, and to thank, my family – some of whom are here with me today. My wife, Nancy Anderson, my son Tai, my daughter Cady, and my oldest son Dylan – who is presently away at summer camp. And my folks – Mel and Dene, and my sister Rachel. To each, I am grateful for their love, support, and sacrifice – for allowing me to do what I believe to be important, and worthy of my children.

I am honored that President Obama has nominated me to serve as General Counsel for the U.S. Environmental Protection Agency. If confirmed, I will do my utmost in helping the Agency keep the promise of its vital mission, with fidelity to the law, and will always strive to earn, and hold, the confidence of the President and of Administrator McCarthy, in leading the Office of General Counsel.

My legal career spans over twenty years, with a focus on environmental law, and I have held numerous positions in government service and in the private sector. Every stop – and every client – has made me a better lawyer, a better manager, and ultimately a better public servant. In 1992, I joined EPA's Office of Enforcement, and soon thereafter had an opportunity to work directly with the Agency's Assistant Administrator for Enforcement and Compliance Assurance. I learned about the inner-workings of Agency rulemakings and saw, through the lens of our enforcement and compliance program, both the challenges of implementing many provisions of our environmental laws, and the many successes that result from working with federal, state, and local partners - and the regulated community - to ensure

that the benefits and protections of our environmental laws are more fully realized. In 1997 I became a prosecutor in the Department of Justice's Environmental Crimes Section. I felt then, as I do now, that serving in that capacity came with an awesome responsibility – to prosecute cases on behalf of the United States with integrity and constant attention to detail, and also to decline to prosecute matters when justice so required. The outcome I was responsible for helping to ensure was not measured on the basis of a particular action or lack thereof, but rather on achieving justice, supported by the facts and based upon a clear-minded reading of the law.

When I left the Department of Justice in 2002, I then worked as a Junior Partner, and Partner, respectively, at two law firms. I had the opportunity to represent individuals, and small and large businesses; I provided legal counsel in the homes, businesses, and board rooms of clients, and advocated in courtrooms across the country. The opportunity to work in the private sector enhanced my professional growth, as I gained a better understanding of how and why the legal issues I confronted, whether complex or relatively simple, were consequential for each of the individuals and businesses with whom I worked. That is a lesson I carry with me.

In 2009 I had the privilege of returning to EPA, where I presently serve as Deputy General Counsel. Upon my return, and though I had last worked at EPA in the mid 1990's, I received an email from a former colleague that said, simply, "Welcome home." That sentiment is a reminder to me of my deep commitment to the mission of EPA, and makes even more humbling the occasion of my nomination.

In the past four years, I have worked on significant matters with nearly every Office within the Agency, and on issues that have touched each of its Regions. We have worked closely with our esteemed colleagues in the Department of Justice to defend the Agency's actions, when challenged in the courts of law. Above all, it has been my pleasure and privilege to work with, and help lead, the extraordinarily talented and dedicated lawyers and other professionals who work in EPA's Office of General Counsel.

In every instance where I, and the Office of General Counsel, have been called upon to render legal advice, we have adhered to the unshakeable principles that our legal analysis, and judgments, must be presented with candor, unvarnished, and always directed towards the faithful implementation and administration of our nation's environmental laws, as the Agency aims to fulfill its mission to protect human health and the environment. The key environmental laws can be, by design, confining in certain ways with respect to Agency action. Other provisions of law allow for greater discretion, placing great weight on scientific findings and the judgment of the Administrator. But in either case, I think that the

Office of General Counsel must continually challenge itself to confront and account for any ideas, interests, and perspectives that may shed light on both well-trodden and new legal paths available to achieve the goals of our laws, and of this Administration.

If confirmed, I look forward to engaging constructively with Congress, with stakeholders, and with members of the general public, on matters that are within the purview of the Office of General Counsel. I commit to listen – carefully – to all who may seek to advance legal arguments or interpretations that can help the Office of General Counsel provide sound legal advice and guidance to Administrator McCarthy, our clients within EPA, and others within the Administration. I look forward, if confirmed, to the opportunity to serve my country, and this Administration, in the role of EPA General Counsel, and will work tirelessly to ensure that we continue to hold ourselves to the highest standards of excellence in performing our duties.

Thank you, again, Chairman Boxer, Ranking Member Vitter, and the other distinguished Members of this Committee. I welcome any questions that you might have.